

TITLE: CIB 95-25 - Procedures for Processing Suspensions/Debarments

November 20, 1995

MEMORANDUM FOR CONTRACTING OFFICERS AND NEGOTIATORS

TO: Distribution List FAC
FROM: DAA/M, Michael Sherwin, Procurement Executive
SUBJECT: Procedures for Processing Suspensions/Debarments

CONTRACT INFORMATION BULLETIN 95-25

This CIB supersedes CIB 94-6, dated April 15, 1994.

Enclosed are the current procedures for processing proposed suspensions and debarments for either procurement or nonprocurement actions.

This CIB clarifies critical areas of responsibility with regard to the agency offices involved in the process, i.e., GC/LE, GC/CCM, IG, and M/OP/E.

It is important to recognize, however, that suspension/debarment is only one of several available administrative actions which the Agency might take in particular cases. Bills for collection, offset, termination for default, or other administrative measures may be more appropriate.

Att: Suspension/Debarment Procedures

SUSPENSION/DEBARMENT PROCEDURES

1) Initial Suspension/Debarment Recommendations:

A referral recommending a suspension/debarment action should be addressed to the Evaluation Division (M/OP/E) as the initial step in the suspension/debarment process.

Referral can be made by IG, any OP staff member, overseas contracting or commodity management officer, or any other USAID officer. Referral must be in writing (preferably three copies), with the reason for the proposed suspension/debarment and supporting documentation, to the extent available. A recommendation of suspension/debarment can be made based on adequate evidence of a cause for suspension/debarment, including indictment or conviction. M/OP/E and GC/LE are available to provide guidance to the person making the referral, if requested.

2) Referral and Review Procedures.

After consultation with GC/LE (and GC/CCM where appropriate), M/OP/E will prepare and transmit a suspension/debarment package including the proposed letter(s), supplementary documents, and action memorandum for clearance by GC/LE. M/OP/E may, as necessary, request additional information from the referring party. The referring party, working with IG as appropriate, will conduct any follow-up investigation needed on proposed actions. GC/CCM will be included in the review process when the suspension/debarment action concerns irregularities with invoices, vouchers, certifications, pricing, bid-rigging and other contractual issues. Referrals resulting from indictments or convictions will not require GC/CCM clearance. If a reviewing office believes more information is needed, or suspension/debarment is not appropriate, it will advise M/OP/E in writing accordingly.

M/OP/E will then forward the complete suspension/debarment package to the DAA/M (the Suspending/Debarring Official) for signature.

After signature, M/OP/E will mail the suspension/debarment letter (return receipt requested), distribute copies to GC/LE, and notify GSA of the action for inclusion on the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs". This letter is discussed below.

3) Suspension Letter and Contractor/Supplier Response.

Generally, the DAA/M will send an initial suspension letter, in which the contractor is advised that it is being suspended, and that pursuant to 22 CFR §208.412(a) and 48 CFR §9.407.3(c), it has thirty days within which to submit information that raises a genuine dispute over the material facts giving rise to the suspension, or submit other information which it believes should be considered by the DAA/M prior to reaching a debarment decision.

If the contractor submits a written statement or requests a personal appearance, M/OP/E will, if requested by the DAA/M, receive the visit or written material on his/her behalf and recommend action, with participation of GC/LE, as appropriate. Where the action turns on issues of contract interpretation or compliance, GC/CCM will be consulted as needed. A written response to the contractor will be prepared by M/OP/E and forwarded to GC/LE for clearance, and then to the DAA/M for signature.

If information submitted by the contractor raises a genuine dispute over the material facts, M/OP/E will arrange for an administrative hearing conducted by a hearing examiner at the GSBICA. GC/LE will represent the Agency at the hearing. The hearing examiner will transmit written findings and recommendations to the DAA/M.

CAVEAT: A purchase order for the GSBICA's services must be completed prior to referral to the GSBICA.

4) Debarment action.

After suspension, the DAA/M will determine whether debarment is appropriate. M/OP/E will prepare a debarment letter with covering action memorandum cleared by GC/LE (and GC/CCM as appropriate) either:

- a. 30 days after the contractor's receipt of the suspension letter notice, if no written or personal response is received;
- b. After review of the contractor's written material or oral presentation if M/OP/E determines that the contractor raised no genuine dispute over the material facts that would require GSBICA review, nor provided any mitigating circumstances the contractor believes should be considered by the DAA/M prior to reaching a debarment decision; or
- c. If the DAA/M, after reviewing a GSBICA hearing examiner's findings and recommendation, determines that debarment is appropriate.

The debarment letter(s) will be forwarded by M/OP/E to GC/LE for clearance, and then to the DAA/M for signature.

After signature, M/OP/E will mail the letter, distribute copies to GC/LE, and notify GSA of the debarment action for inclusion on the "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs".

5. Cancellation of suspension/debarment or decision not to debar a suspended contractor.

If appropriate, M/OP/E will prepare a letter informing the contractor of such a decision. The letter will be forwarded by M/OP/E through GC/LE (and GC/CCM, if appropriate), to the DAA/M for signature. M/OP/E will mail the letter, distribute a copy to GC/LE, and notify GSA so that the contractor may be removed from the "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs".

6) Time frames.

Reviewing and processing offices will give suspension/debarment matters a high priority and will take appropriate action expeditiously.